

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Butler	Team: Squad #4	CCRB Case #: 201802323	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 01/20/2018 6:00 PM	Location of Incident: Northeast corner Franklin Avenue and East 166th Street	Precinct: 42	18 Mo. SOL 7/20/2019	EO SOL 7/20/2019	
Date/Time CV Reported Sun, 01/21/2018 10:12 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/26/2018 11:03 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT3 David Camacho	211	941488	NARCBBX
2. DT3 Mayky Santos	00564	944982	NARCBBX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Dunia Palacios	05307	940543	NARCBBX

Officer(s)	Allegation	Investigator Recommendation
A.DT3 David Camacho	Force: Detective David Camacho used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.DT3 Mayky Santos	Force: Detective Mayky Santos struck § 87(2)(b) [REDACTED] with a blunt instrument.	[REDACTED]

Case Summary

On January 21, 2018, Captain Anthony Piazza of Patrol Borough Bronx filed this complaint with IAB via phone on behalf of § 87(2)(b). On March 26, 2018, the complaint was received at the CCRB.

On January 20, 2018, at approximately 6 p.m., Det. David Camacho and Det. Mayky Santos of Bronx Narcotics arrested § 87(2)(b) at Franklin Avenue and East 166 Street in the Bronx. Det. Camacho grabbed § 87(2)(b) around his body in a bear hug and pulled him to the ground (**Allegation A – Force**, § 87(2)(g)). Det. Santos allegedly struck § 87(2)(b) in his left eye with a flashlight or gun, causing § 87(2)(b) to allegedly lose consciousness and sustain a fractured left orbital bone (**Allegation B – Force**, § 87(2)(g)). The officers arrested § 87(2)(b) for criminal sale of marijuana and resisting arrest.

There is video footage of the incident, which IAB provided to the CCRB (BR 07). The video was recorded by surveillance cameras at the scene of the incident. The video shows the beginning of the incident but does not show the alleged force because the camera is obstructed by a parked van.

Findings and Recommendations

Allegation A – Force: Detective David Camacho used physical force against § 87(2)(b)

Allegation B – Force: Detective Mayky Santos struck § 87(2)(b) with a blunt instrument.

According to § 87(2)(b) (BR 01), he walked from his girlfriend's apartment at § 87(2)(b) toward a deli at East 166 Street and Boston Road in the Bronx. § 87(2)(b) did not interact with anyone as he walked. § 87(2)(b) denied that he was under the influence of alcohol or drugs during the incident. He denied that he had any drugs on his person and denied selling drugs.

§ 87(2)(b) walked approximately two blocks to the corner of East 166th Street and Franklin Avenue in the Bronx. He saw his friend, identified by the investigation as § 87(2)(b) parking his vehicle near the corner. § 87(2)(b) waved at § 87(2)(b). At that time, Det. Camacho and Det. Santos ran toward § 87(2)(b) from behind. § 87(2)(b) turned to look at the officers. Det. Camacho wrapped both of his arms around § 87(2)(b)'s body and tackled him to the ground, causing § 87(2)(b)'s back and the back of his head to strike the ground. § 87(2)(b) did not resist the officers in any way. § 87(2)(b) sustained a slipped disk and pain to his back from being tackled.

§ 87(2)(b) alleged that Det. Santos struck his left eye with an object while § 87(2)(b) was lying prone on his back on the ground. § 87(2)(b) believed that he saw an object in Det. Santos' hand because he saw a "shiny, dull chrome" color in Det. Santos' palm. § 87(2)(b) believed that the object was a gun due to the object's weight, which he described as being too heavy to be a flashlight or a baton. § 87(2)(b) did not see PO Santos draw his gun.

Sgt. Langori of IAB Group 54 interviewed § 87(2)(b) for the IAB investigation. According to Sgt. Langori (BR 08), § 87(2)(b) alleged during the IAB interview that Det. Santos struck him with a flashlight, not a gun.

According to § 87(2)(b) he immediately lost consciousness upon being struck in the face. He regained consciousness in § 87(2)(b). He was diagnosed with a fractured left orbital bone. § 87(2)(b) returned to § 87(2)(b).

§ 87(2)(b) two days after the incident for a follow-up appointment. He also received treatment at § 87(2)(b)

An ambulance responded to the stationhouse and transported § 87(2)(b) to § 87(2)(b). The EMS workers prepared a Prehospital Care Report (BR 11) summarizing § 87(2)(b)'s condition at the stationhouse. The Prehospital Care Report noted that § 87(2)(b) was conscious when the EMTs arrived at the stationhouse. § 87(2)(b) was uncooperative with the EMTs and refused to explain how he sustained his injuries. The EMTs observed swelling to § 87(2)(b)'s left eye and dry blood near his nose. § 87(2)(b)'s medical records (BR 12) from § 87(2)(b) indicated that § 87(2)(b) was conscious upon his arrival at the hospital. The medical staff diagnosed § 87(2)(b) with a fractured left orbital bone. The medical records also noted that § 87(2)(b) was under the influence of alcohol and was referred to a social worker for substance abuse treatment. The medical records noted that § 87(2)(b) was intoxicated, asleep, and unresponsive to the social worker due to his intoxication.

§ 87(2)(b) provided an unverified phone statement (BR 02). He was uncooperative with the investigation and did not provide a verified in-person statement (BR 03).

According to § 87(2)(b) (BR 02), he was inside of his vehicle with his friend, who he refused to identify, when he saw the officers run toward § 87(2)(b). He did not see § 87(2)(b) resist the officers in any way. § 87(2)(b) did not see how the officers brought § 87(2)(b) to the ground because his vision was obstructed by a parked car. § 87(2)(b) exited his vehicle and approached the officers. He saw § 87(2)(b) lying prone on the ground, and he saw PO Santos punch § 87(2)(b) in the face once. § 87(2)(b) did not notice an object in PO Santos' hand.

§ 87(2)(b) believed that § 87(2)(b) was unconscious. § 87(2)(b)'s eyes were closed, and he did not respond to the officers when they spoke to him. Additional officers arrived on the scene, including officers driving a prisoner van. The officers helped § 87(2)(b) to his feet, and he walked with them to the prisoner van. § 87(2)(b) appeared to be unsteady on his feet, and the officers pulled him along while escorting him to the van.

§ 87(2)(b) stated that several other people stood nearby and may have witnessed the incident, but he could not identify them. The investigation subpoenaed information from the Department of Homeless Services to determine whether DHS officers from a nearby homeless shelter may have witnessed the incident. However, DHS indicated that there were no DHS officers stationed outside the shelter during the incident.

§ 87(2)(e), § 87(2)(f)

§ 87(2)(b)

Det. Camacho approached § 87(2)(b) and said, "Police, don't move." § 87(2)(b) moved away from Det. Camacho into the street. Det. Camacho reached toward § 87(2)(b) to grab his hands, but § 87(2)(b) pushed Det. Camacho's hands away, pulled his arms back, and fled into the street. According to both officers, Det. Santos stood a few

feet behind Det. Camacho during the initial stop. His description of Det. Camacho's initial interaction with § 87(2)(b) was consistent with Det. Camacho's testimony.

Det. Camacho pursued § 87(2)(b) into the street and grabbed § 87(2)(b)'s jacket. § 87(2)(b) continued to move into the street and push Det. Camacho's hands away. Det. Camacho wrapped his arms around § 87(2)(b)'s torso, holding him in a bear hug. Det. Santos grabbed somewhere on § 87(2)(b)'s upper body. The momentum of Det. Camacho and § 87(2)(b) moving into the street caused both parties to fall to the ground.

According to Det. Camacho, he fell on his left side, and § 87(2)(b) fell on his right side. Det. Santos did not see which part of § 87(2)(b)'s body contacted the ground first. Det. Santos fell to the ground on top of Det. Camacho and § 87(2)(b) because he was still holding onto § 87(2)(b)'s upper body. Det. Santos did not recall what parts of their bodies he contacted.

Both officers stated that § 87(2)(b) kicked his feet and pulled his arms away while lying on the street. The officers told him to put his hands behind his back, but he did not comply. Det. Santos and Det. Camacho overcame § 87(2)(b)'s resistance by grabbing his arms, pulling them behind his back, and placing him in handcuffs.

Det. Santos denied using any other physical force against § 87(2)(b) besides grabbing him and pulling his arms behind his back. Det. Santos denied that he drew his gun at any point during the incident. Det. Santos denied striking § 87(2)(b) in the face with either his flashlight or his gun. Det. Santos did not recall striking § 87(2)(b) in the face in any other way during the incident. Det. Camacho denied that he or Det. Santos punched § 87(2)(b) or struck him with any object.

According to Det. Camacho and Det. Santos, § 87(2)(b) stopped resisting and remained motionless on the ground with his eyes closed once the officers handcuffed him. Both officers told § 87(2)(b) to stand up, but he did not respond. Neither officer observed any injuries on § 87(2)(b). Both officers believed that § 87(2)(b) was pretending to be unconscious or asleep. The officers did not observe any contact to § 87(2)(b)'s head that might have caused him to be knocked unconscious.

According to Det. Camacho and Det. Santos, neither officer independently observed § 87(2)(b)'s injuries. They never became aware of the nature of § 87(2)(b)'s injuries, and neither officer knew how § 87(2)(b) sustained his injuries. Det. Camacho did not see § 87(2)(b)'s head or face strike the ground during his arrest, and Det. Santos did not recall how § 87(2)(b) contacted the ground.

The video footage (BR 07) embedded below shows part of the interaction between the officers and § 87(2)(b) during his arrest.



201802323_20180522_1232_DM.mp4

§ 87(2)(e), § 87(2)(f)

Det. Camacho approaches § 87(2)(b) from behind <00:30>. Det. Santos walks several feet behind Det. Camacho <00:37>. § 87(2)(b) quickly moves away from the officers into the street as they approach him. § 87(2)(b) appears to turn and run while pulling his arms away from Det. Camacho, who reaches toward him <00:47-00:58>. The officers pursue § 87(2)(b) into the street, and Det. Camacho grabs

§ 87(2)(b) as he runs behind a parked van <00:51-00:58>. The van blocks the camera from depicting the remainder of the interaction.

Other officers, including Sgt. Palacios and Det. Ortiz, arrived on the scene after Det. Camacho and Det. Santos handcuffed § 87(2)(b). According to Sgt. Palacios (BR 06), she approached § 87(2)(b) as he was lying on the ground. § 87(2)(b) opened his eyes, looked at her, and quickly closed his eyes again as she approached. Sgt. Palacios did not notice any injuries on § 87(2)(b). Sgt. Palacios instructed § 87(2)(b) to stand up multiple times, but he did not respond. Sgt. Palacios believed that § 87(2)(b) was pretending to be unconscious. Other officers, who she did not recall by name, lifted § 87(2)(b) from the ground by grabbing under his arms. § 87(2)(b) then walked with the officers to the prisoner van of his own accord. While walking to the van, § 87(2)(b) shifted his weight back and forth to impede the officers' efforts to escort him to the van.

The officers went to the 42nd Precinct stationhouse to process § 87(2)(b)'s arrest. Det. Ortiz was assigned to be § 87(2)(b)'s arresting officer, and he and Sgt. Palacios primarily interacted with § 87(2)(b) in the stationhouse. Neither Det. Camacho nor Det. Santos saw or interacted with § 87(2)(b) at the stationhouse.

According to Sgt. Palacios, § 87(2)(b) stood and walked around of his own accord inside the stationhouse. § 87(2)(b) kept his eyes closed and did not speak during arrest processing. While photographing § 87(2)(b) for his arrest, Sgt. Palacios observed a bruise and a bleeding laceration near one of his eyes. Due to the presence of those injuries and § 87(2)(b)'s abnormal behavior of walking around with his eyes closed, Sgt. Palacios decided to call an ambulance for him. Sgt. Palacios did not know how § 87(2)(b) sustained his injuries.

Sgt. Palacios informed Det. Camacho and Det. Santos that § 87(2)(b) needed to go to the hospital and instructed them to prepare TRI reports. Both officers prepared TRI reports, which noted that the officers executed a forcible takedown on § 87(2)(b) and used no other physical force against him (BR 09). § 87(2)(b)'s TRI photo (BR 10) showed him standing upright of his own accord with his eyes closed in the stationhouse. The photo appeared to show an abrasion near § 87(2)(b)'s left eye.

Sgt. Palacios believed that § 87(2)(b) sustained his injuries from contacting the ground during his arrest. She did not recall if Det. Camacho or Det. Ortiz told her that and believed that she may have reached that conclusion after reading the TRI reports.

Captain Anthony Piazza of Patrol Borough Bronx SU responded to the stationhouse and prepared an ISAR for the incident. He wrote in the ISAR that § 87(2)(b) sustained a swollen eye and bleeding from his nose after a forcible takedown caused § 87(2)(b)'s face to strike the street (BR 09). During his CCRB interview, Det. Santos reviewed the ISAR. He did not recall telling Captain Piazza that § 87(2)(b) sustained his injuries from striking his face on the street. The ISAR does not specify how Captain Piazza reached this conclusion, and it is unclear if someone provided the information to him or if he reached that conclusion based on his review of the TRI reports.

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. Patrol Guide Procedure 221-01 (BR 13)

§ 87(2)(g)

§ 87(2)(g), § 87(2)(e), § 87(2)(f)

§ 87(2)(b)'s medical records confirmed that he sustained a fracture to his left orbital bone during the incident, but the investigation could not determine how § 87(2)(b) sustained that injury. As noted, § 87(2)(b)'s explanation was not reliable. In addition, neither Det. Camacho nor Det. Santos could account for how § 87(2)(b) sustained his injury. The ISAR noted that § 87(2)(b) sustained his injury from striking his face on the street, but neither Det. Camacho nor Det. Santos saw § 87(2)(b)'s face strike the street. Det. Camacho also testified that § 87(2)(b) fell to the street on his right side, meaning that § 87(2)(b) could not have injured his left eye from falling to the street.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
- Det. Santos has been a member of service for 11 years and has been a subject in five prior CCRB complaints and 10 allegations, none of which was substantiated. § 87(2)(g) [REDACTED]
[REDACTED]
- Det. Camacho has been a member of the service for 12 years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- A notice of claim request was submitted to the Comptroller's Office, and the result will be added to the case file upon receipt at the agency.
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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